IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 4629 of 2005
Date of decision : 9.1.2007

Gurdev Kaur

.....Petitioner.

Versus

Sukhdev Singh & Anr.

.....Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.Suresh Goyal,Advocate
for the petitioner.

Ms. Malkiat Mann, Advocate
for the respondent No.1.

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VINOD K. SHARMA,J.(ORAL)

The present revision petition has been filed against the order dated 23.8.2005 passed by the learned Civil Judge (Jr. Divn.), Barnala vide which application moved by the petitioner for framing additional issues has been dismissed.

The petitioner by way of application for additional issues sought the framing of the following issues :-

a) Whether the defendant no.2 Gurdev Kaur is a bona fide purchaser for consideration without notice of alleged agreement dated 1.7.1996, if so its effect ?OPD

b) Whether the plaint has not been properly verified, if so, its effect ?OPD

The said application has been rejected by the learned trial Court by observing that issue no.4 i.e.

"Whether sale deed dated 15.10.96 executed by defendant No1 in favour of defendant No.2 is illegal, null and void and has no effect on the rights of the plaintiff ?OPP",

would cover the issues now sought to be raised by the petitioner. The only contention of the learned counsel for the petitioner is that onus of proving issue No.4 is on the plaintiff and, therefore, the petitioner would not be allowed to lead evidence to prove her case that sale deed dated 15.10.1996 executed by defendant No.1 in her favour was for bona fide consideration and without notice of the alleged agreement to sell dated 1.7.1996. This apprehension of the learned counsel for the petitioner is misconceived. The petitioner would be allowed to lead evidence in support of her case as the claim of the petitioner would be deemed to have been covered under issue no.4 and she is to be permitted to lead evidence to prove her stand.

Disposed of accordingly.

9.1.2007 **(VINOD K. SHARMA)**
'sp' JUDGE